

107TH CONGRESS  
2D SESSION

# H. R. 4976

To amend title 23, United States Code, to increase penalties for individuals who operate motor vehicles while intoxicated or under the influence of alcohol.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 20, 2002

Mrs. LOWEY introduced the following bill; which was referred to the  
Committee on Transportation and Infrastructure

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## A BILL

To amend title 23, United States Code, to increase penalties for individuals who operate motor vehicles while intoxicated or under the influence of alcohol.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Burton Greene Higher-  
5       Risk Impaired Driver Act”.

6       **SEC. 2. INCREASED PENALTIES.**

7       (a) IN GENERAL.—Chapter I of title 23, United  
8       States Code, is amended by adding at the end the fol-  
9       lowing:

1 **“§ 165. Increased penalties for higher risk drivers for**  
2 **driving while intoxicated or driving**  
3 **under the influence**

4 “(a) DEFINITIONS.—In this section, the following  
5 definitions apply:

6 “(1) BLOOD ALCOHOL CONCENTRATION.—The  
7 term ‘blood alcohol concentration’ means grams of  
8 alcohol per 100 milliliters of blood or the equivalent  
9 grams of alcohol per 210 liters of breath.

10 “(2) DRIVING WHILE INTOXICATED; DRIVING  
11 UNDER THE INFLUENCE.—The terms ‘driving while  
12 intoxicated’ and ‘driving under the influence’ mean  
13 driving or being in actual physical control of a motor  
14 vehicle while having a blood alcohol concentration  
15 above the permitted limit as established by each  
16 State.

17 “(3) LICENSE SUSPENSION.—The term ‘license  
18 suspension’ means the suspension of all driving  
19 privileges.

20 “(4) MOTOR VEHICLE.—The term ‘motor vehi-  
21 cle’ means a vehicle driven or drawn by mechanical  
22 power and manufactured primarily for use on public  
23 highways but does not include a vehicle operated  
24 solely on a rail line or a commercial vehicle.

25 “(5) HIGHER-RISK IMPAIRED DRIVER LAW.—

1           “(A) The term ‘higher-risk impaired driver  
2 law’ means a State law that provides, as a min-  
3 imum penalty, that an individual described in  
4 subparagraph (B) shall—

5                   “(i) receive a driver’s license suspen-  
6 sion for not less than 1 year, including a  
7 complete ban on driving for not less than  
8 90 days and for the remainder of the li-  
9 cense suspension period and prior to the  
10 issuance of a probational hardship or work  
11 permit license, be required to install a cer-  
12 tified alcohol ignition interlock device;

13                   “(ii) have the motor vehicle driven at  
14 the time of arrest impounded or immo-  
15 bilized for not less than 90 days and for  
16 the remainder of the license suspension pe-  
17 riod require the installation of a certified  
18 alcohol ignition interlock device on the ve-  
19 hicle;

20                   “(iii) be subject to an assessment by  
21 a certified substance abuse official of the  
22 State that assesses the individual’s degree  
23 of abuse of alcohol and assigned to a treat-  
24 ment program or impaired driving edu-

1 cation program as determined by the as-  
2 sessment;

3 “(iv) be imprisoned for not less than  
4 10 days, have an electronic monitoring de-  
5 vice for not less than 100 days, or be as-  
6 signed to a DUI/DWI specialty facility for  
7 not less than 30 days;

8 “(v) be fined a minimum of \$1,000,  
9 with the proceeds of such funds to be used  
10 by the State or local jurisdiction for im-  
11 paired driving related prevention, enforce-  
12 ment, and prosecution programs, or for the  
13 development or maintenance of a tracking  
14 system of offenders driving while impaired;

15 “(vi) if the arrest resulted from in-  
16 volvement in a crash, the court shall re-  
17 quire restitution to the victims of the  
18 crash;

19 “(vii) be placed on probation by the  
20 court for a period of not less than 2 years;

21 “(viii) if diagnosed with a substance  
22 abuse problem, during the first year of the  
23 probation period referred to in clause (vii),  
24 attend a treatment program for a period  
25 of 12 consecutive months sponsored by a

1 State certified substance abuse treatment  
2 agency and meet with a case manager at  
3 least once each month; and

4 “(ix) be required by the court to at-  
5 tend a victim impact panel, if such a panel  
6 is available.

7 “(B) An individual referred to in subpara-  
8 graph (A) is an individual who—

9 “(i) is convicted of a second or subse-  
10 quent offense for driving while intoxicated  
11 or driving under the influence within a  
12 minimum of 5 consecutive years;

13 “(ii) is convicted of a driving while in-  
14 toxicated or driving under the influence  
15 with a blood alcohol concentration of 0.15  
16 percent or greater;

17 “(iii) is convicted of a driving-while-  
18 suspended offense if the suspension was  
19 the result of a conviction for driving under  
20 the influence; or

21 “(iv) refuses a blood alcohol con-  
22 centration test while under arrest or inves-  
23 tigation for involvement in a fatal or seri-  
24 ous injury crash.

1           “(6) SPECIAL DUI/DWI FACILITY.—The term  
2           ‘special DUI/DWI facility’ means a facility that  
3           houses and treats offenders arrested for driving  
4           while impaired and allows such offenders to work  
5           and/or attend school.

6           “(7) VICTIM IMPACT PANEL.—The term ‘victim  
7           impact panel’ means a group of impaired driving vic-  
8           tims who speak to offenders about impaired driving.  
9           The purpose of the panel is to change attitudes and  
10          behaviors in order to deter impaired driving recidi-  
11          vism.

12          “(b) TRANSFER OF FUNDS.—

13               “(1) FISCAL YEAR 2006.—Beginning on October  
14               1, 2006, if a State has not enacted or is not enforce-  
15               ing a higher risk impaired driver law, the Secretary  
16               shall transfer an amount equal to 2 percent of the  
17               funds apportioned to the State on that date under  
18               each of paragraphs (1), (3), and (4) of section  
19               104(b) to the apportionment of the State under sec-  
20               tion 402 solely for impaired driving programs.

21               “(2) FISCAL YEAR 2007.—On October 1, 2007,  
22               if a State has not enacted or is not enforcing a high-  
23               er-risk impaired driver law, the Secretary shall  
24               transfer an amount equal to 4 percent of the funds  
25               apportioned to the State on that date under each of

1 paragraphs (1), (3), and (4) of section 104(b) to the  
2 apportionment of the State under section 402 to be  
3 used or directed as described in paragraph (1).

4 “(3) FISCAL YEAR 2008.—On October 1, 2008,  
5 if a State has not enacted or is not enforcing a high-  
6 er-risk impaired driver law, the Secretary shall  
7 transfer an amount equal to 6 percent of the funds  
8 apportioned to the State on that date under each of  
9 paragraphs (1), (3), and (4) of section 104(b) to the  
10 apportionment of the State under section 402 to be  
11 used or directed as described in paragraph (1).

12 “(4) DERIVATION OF AMOUNT TO BE TRANS-  
13 FERRED.—The amount to be transferred under  
14 paragraph (1), (2), or (3) may be derived from 1 or  
15 more of the following:

16 “(A) The apportionment of the State  
17 under section 104(b)(1).

18 “(B) The apportionment of the State  
19 under section 104(b)(3).

20 “(C) The apportionment of the State  
21 under section 104(b)(4).

22 “(5) TRANSFER OF OBLIGATION AUTHORITY.—

23 “(A) IN GENERAL.—If the Secretary trans-  
24 fers under this subsection any funds to the ap-  
25 portionment of a State under section 402 for a

1           fiscal year, the Secretary shall transfer an  
2           amount, determined under subparagraph (B),  
3           of obligation authority distributed for the fiscal  
4           year to the State for carrying out impaired  
5           driving programs authorized under section 402.

6           “(B) AMOUNT.—The amount of obligation  
7           authority referred to in subparagraph (A) shall  
8           be determined by multiplying—

9                   “(i) the amount of funds transferred  
10                  under subparagraph (A) to the apportion-  
11                  ment of the State under section 402 for  
12                  the fiscal year; by

13                  “(ii) the ratio that—

14                       “(I) the amount of obligation au-  
15                       thority distributed for the fiscal year  
16                       to the State for Federal-aid highways  
17                       and highway safety construction pro-  
18                       grams; bears to

19                       “(II) the total of the sums appor-  
20                       tioned to the State for Federal-aid  
21                       highways and highway safety con-  
22                       struction programs (excluding sums  
23                       not subject to any obligation limita-  
24                       tion) for the fiscal year.



1           “(7) LIMITATION ON APPLICABILITY OF OBLI-  
2           GATION LIMITATION.—Notwithstanding any other  
3           provision of law, no limitation on the total of obliga-  
4           tions for highway safety programs under section 402  
5           shall apply to funds transferred under this sub-  
6           section to the apportionment of a State under such  
7           section.

8           “(c) WITHHOLDING OF FUNDS.—

9           “(1) FISCAL YEAR 2009.—On October 1, 2008,  
10          if a State has not enacted or is not enforcing a high-  
11          er-risk impaired driver law, the Secretary shall with-  
12          hold 2 percent of the amount required to be appor-  
13          tioned for Federal-aid highways to the State on that  
14          date under each of paragraphs (1), (3), and (4) of  
15          section 104(b).

16          “(2) FISCAL YEAR 2010.—On October 1, 2009,  
17          if a State has not enacted or is not enforcing a high-  
18          er-risk impaired driver law, the Secretary shall with-  
19          hold 4 percent of the amount required to be appor-  
20          tioned for Federal-aid highways to the State on that  
21          date under each of paragraphs (1), (3), and (4) of  
22          section 104(b).

23          “(3) FISCAL YEAR 2011.—On October 1, 2010,  
24          if a State has not enacted or is not enforcing a high-  
25          er-risk impaired driver law, the Secretary shall with-

1 hold 6 percent of the amount required to be appor-  
2 tioned for Federal-aid highways to the State on that  
3 date under each of paragraphs (1), (3), and (4) of  
4 section 104(b).

5 “(4) COMPLIANCE.—Not later than 4 years  
6 after the date that the apportionment for any State  
7 is reduced in accordance with this section the Sec-  
8 retary determines that such State has enacted and  
9 is enforcing a provision described in section 163(a),  
10 the apportionment of such State shall be increased  
11 by an amount equal to such reduction. If at the end  
12 of such 4-year period, any State has not enacted and  
13 is not enforcing a provision described in section  
14 163(a) any amounts so withheld shall be transferred  
15 to carry out impaired driving programs authorized  
16 under section 402.

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